

DUBUQUE CLAIM.

[To accompany bill H. R. No. 517.]

JULY 2, 1842.

Mr. HOWARD, from the Committee on the Public Lands, submitted the following

REPORT:

*The Committee on the Public Lands, to whom was referred the petition of the citizens residing upon the Dubuque claim, (so called,) in the Territory of Iowa, report:*

That the petitioners set forth, in their petition, that they are settlers upon the public lands of the United States, and have been since the 6th day of June, 1833; that, in consequence of such settlements, they are entitled to the benefits of the respective pre-emption laws enacted since that date.

They further represent, that the privilege of making proof and payment for their homes, under the laws before mentioned, is refused them by the register and receiver at Dubuque, in consequence of the annexed letter from the Commissioner of the General Land Office, under date of 4th of April, 1839:

"In reply to a letter of the 25th February last, from your office, I have to state that the claim therein presumed to be referred to, viz: the Dubuque and Chouteau claim to a tract of 148,176 arpens of land, situate on the river Mississippi, at a place called the Spanish Mines, (American State Papers, Public Lands, printed by D. Green, vol. 2, page 551,) having been duly presented to the old board of commissioners, is reserved from sales; and, consequently, no entries within its limits must be permitted."

The object sought to be removed by the petitioners in this case is, the prohibition contained in the above letter; and the committee are of opinion that it is but reasonable and just that their prayers should be granted. In coming to this conclusion, the committee deem it unnecessary to enter into a minute history of the Dubuque or Chouteau claim, further than to say that the privilege given to Julien Dubuque, by the Indian tribes, was the mere personal privilege of hunting, mining, smelting, fishing, &c., within certain limits, (21 miles in front, upon the Mississippi, by 9 miles in depth,) and was not intended to convey to him any farther right or privilege, or that any such right or privilege should descend to his heirs or legal representatives.

The committee feel justified and sustained in this view, from the fact that the Government of the United States has not only, on all proper occasions, heretofore denied the validity of such claim, but has since purchased this same tract of land from the Indians, by treaty, dated September 21, 1832,

at Rock island, and given, through its agents, to the settlers, written permission to reside on and occupy said tract of land, and to work at the mines thereon, to erect houses for the protection, and enclose gardens for the support of, the settlers, they paying to the agents of the United States, for the benefit of the United States, certain proportions of the amount of mineral raised or lead ore smelted by them.

The committee feel assured that the Indians considered the privilege granted by them to Julien Dubuque as a personal privilege, from the fact that, as early as the year 1830, and previous to the cession, by treaty, of the land called the "Black Hawk Purchase" to the United States, (and which includes this tract of land,) and while all of what is now comprised within the limits of the Territory of Iowa belonged to the Indian tribes, divers persons crossed the Mississippi river, and commenced mining upon this tract of land, (the Dubuque claim;) which occupancy was resisted and complained of by the Indians, and, upon proper representations being made, the Government sent a military force to expel such persons, which was accomplished; and said military force was then stationed at the place where now stands the town of Dubuque. After the making of the treaty of September 21, 1832, (the Black Hawk Purchase,) and previous to the ratification thereof, the whites again crossed the river, and commenced mining and making gardens in the vicinity of what is now the town of Dubuque. By the said treaty, it was stipulated that the Indians were to retain possession of the lands so ceded until the 1st of June, 1833. To keep which stipulation inviolate, the Government again sent a military force to expel its citizens, which was, as far as practicable, effected; and that, after the due ratification of the said treaty, to wit, on the 1st day of June, 1833, said military force was withdrawn, and the settlers were *permitted, encouraged, and invited*, by the Government, to occupy such tract of land under the Government.

The committee say "invited and encouraged," because it was then that agents were appointed to grant permits to mine, build houses, make gardens, and to receive the proportion of mineral and lead ore stipulated in the agreements between the agents of the United States and the miner and smelter, to be paid to the United States. Would the Indians, who were one of the parties to the grant made to Dubuque, have felt aggrieved at the settlement of the whites upon this tract of land, if long previously they had, by their own act, vested in Julien Dubuque all their interest; or would the Government have deemed it necessary to undergo the trouble and expense of stationing a military force to prevent the intrusion of the whites upon a tract of land owned by white men; or would the Government have encouraged the white settlements, and accepted part of the minerals drawn from the bowels of the earth by the sweat and industry of the poor miner, had such land, and consequently the mines therein, belonged to the heirs of "Dubuque," and the United States had had no claim or interest in the said tract?

The committee would further represent, that a law was enacted by Congress, and approved July 2, 1836, giving to the residents of certain towns in the Territory of Wisconsin the privilege of purchasing their lots by pre-emption, and appointing commissioners to adjudicate upon their respective claims to pre-emption, and to grant certificates to the persons entitled thereto; that the towns of Dubuque and Peru were included in said act, both of which towns are within the said "Dubuque claim;" that the commis-

sioners appointed, in pursuance of said law, decided upon the claims of the several residents, and the purchase money of those lots (except in some cases, which have not been adjudicated upon) has been paid into the Treasury of the United States, and the said lots duly entered, as other public lands, in the proper land office. The committee look upon the enactment of this law as another encouragement to settle within said claim; and it was considered, by those who had previously settled, as an incentive to a further expenditure of money and labor in farming improvements.

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That the said bill be passed, and the same be amended so that it shall read, "and the same shall be paid into the Treasury of the United States, and the said lots fully entered, as other public lots in the proper land office. The committee look upon the enactment of this law as another encouragement to settle within said claim; and it is considered, by those who had previously settled as an incentive to a large expenditure of money and labor in farming improvements. The committee are therefore of opinion that the relief prayed for should be granted, and accordingly report a bill."

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